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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

ZEENDER, FLORIAN M

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3627

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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/815,731
Filing Date: March 23, 2001
Appellant(s): HOFFMAN ET AL.

William T. Ellis
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 4, 2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows: The rejected claims are claims 1-18, **not** 1-27, as Appellant has stated.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-18 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,893,076	Hafner et al.	04-1999
5,914,878	Yamamoto et al.	06-1999
6,341,271	Salvo et al.	01-2002

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-18 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on 02/10/2004.

(11) Response to Argument

Group 1:

In paragraph 2 of the argument for group 1, the appellant argues that the comparison step includes “comparing the actual amount of raw materials used to the predicted amount”. Claim 1, however, does not state this but in fact claims “comparing an amount of raw materials sold to a store and the predicted amount”, which limitation is anticipated by the prior art. The appellant then argues that an important aspect of the claimed combination is “determining improper use of the raw materials from any of a variety of causes, such as, for example, waste, theft, and/or improper production methods for the final good”. However, these “important” aspects are not found in the claim limitations. Then, the appellant argues that problems are indicated by a significant discrepancy between predicted raw material usage compared to actual usage as reflected by the purchase data. However, raw material “usage” is not claimed

and usage reflected by the purchase data is also not specifically claimed. Thus, the appellant is arguing limitations that are not in the claims as presently written.

In paragraphs 3-4 of the argument for group 1, the appellant argues that Hafner discloses a system for processing transactions between a **single buyer and a single supplier**. However, this statement is not true as Hafner teaches processing transactions between "at least one supplier and at least one retailer" (See Hafner Col. 2, lines 42-45) which anticipates the claim limitation of "receiving data from a **plurality** of stores". The appellant argues that Hafner does not teach "aggregating that data to then be sent to the suppliers". Again, this limitation is **not** found in the claims. What is claimed, "aggregating the data in a database" is anticipated by Hafner (See for example, Col. 5, lines 27-33). Appellant further argues that Hafner does not disclose a "management tool for a multi-store supply chain"; but this limitation is **not** found in the claims as written, although Hafner would still anticipate this language. Appellant argues that Hafner does not teach "adjusting a supply of raw materials based on the information" (*the terminology, "the information" refers to extracted information from the database relevant to the supplier parameters, not necessarily the aggregated data in the database; see claim 1 paragraph d*). This statement is true. Hafner only teaches **changing** (i.e., adjusting supply of goods) **the Suggested Order Quantity (SOQ)** (See Col. 6, lines 29-34) but is silent on adjusting specifically raw materials from which the goods are produced. A limitation that is taught by secondary reference, Yamamoto et al.; the combination being obvious to one of ordinary skill in the art for the reasons given in the Examiner's rejection. The applicant argues that Hafner does not teach

“calculating a predicted amount of raw materials for a given level of sales of goods sold by the store”. The limitation, as presently written, is a form of “forecasting” that is well known in the business environment, and taught by Hafner’s forecasting engine 230 and PO (purchase order) generation function 275 (See also Hafner Col. 6, lines 29-39). The appellant argues that Hafner does not teach “comparing an amount of raw materials sold to a store and the predicted amount of raw materials for the given level of sales of goods, to thereby provide an indication of a level of discrepancy”. This statement is true, as stated in the Examiner’s final rejection. However, what Hafner does teach with respect to the “comparing” limitation is as follows: comparing a suggested order quantity (SOQ) with overall demand, and thereby provide an indication of discrepancies (see Hafner Col. 2, lines 29-41). The deficiency in Hafner of not teaching a comparison of actual goods sold (Hafner only teaches comparing the order) with the predicted amount (Hafner teaches demand) is anticipated by supporting reference, Salvo et al. Salvo et al. teach that it was well known in the art to compare the actual goods received (i.e., to check for late deliveries; See for example, Salvo et al. Col. 11, line 13) with the predicted amount of raw materials needed. The Salvo et al. reference has been used to specifically teach that this feature is well known in art and its combination with Hafner and Yamamoto et al. would have been obvious to one of ordinary skill in the art for the reasons given in the Examiner’s final rejection.

In paragraph 8 of the argument for Group 1, the Appellant argues that Salvo does not teach receiving POS data. While this may be true, the limitation is taught by the primary reference, Hafner, in Column 4, line 3, for example. Appellant argues that

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Salvo focuses “on quality of the raw material, while the claimed invention focuses on quantity and problems in the manufacturing process itself”. However, as stated above, Salvo does focus, at least partially, on quantity as the reference teaches checking “late deliveries” (Salvo et al. Col. 11, line 13), which means a “quantity” has not been received. The applicant further argues that Salvo et al. does not look at the manufacturing operation itself, however, Salvo et al. does order goods for a manufacturing operation, similar to applicant's operation. Salvo et al. is analogous art. The appellant further argues that Salvo et al. doesn't teach other limitations in the claims but these limitations are taught by the primary reference, Hafner (*he also again argues limitations not found in the claims which arguments have been addressed above*).

In conclusion, the limitations of the claims are anticipated by the combination of references, and the combination is proper for the reasons given in the final Office action.

Group 2:

Hafner discloses a forecasted amount of the required goods at least in Column 2, lines 29-41. This feature, therefore, is anticipated by the combination of references and the claim of Group 2 has been properly rejected for this reason and for the reasons set forth for claim 1 (Group I) above.

Group 3:

The combination of references, as discussed above for Group 1, anticipate limitations in system format. Substantially the same response to arguments apply to the claims of this group.

Group 4:

Hafner discloses a forecasted amount of the required goods at least in Column 2, lines 29-41. This feature, therefore, is anticipated by the combination of references and the claim of Group 4 has been properly rejected for this reason and for the reasons set forth for claim 6 (Group 3) above.

Group 5:

The combination of references, as discussed above for Group 1, anticipate limitations in program product format. Substantially the same response to arguments apply to the claims of this group.

Group 6:

Hafner discloses a forecasted amount of the required goods at least in Column 2, lines 29-41. This feature, therefore, is anticipated by the combination of references and the claim of Group 6 has been properly rejected for this reason and for the reasons set forth for claim 11 (Group 5) above.

Group 7:

The combination of references, as discussed above for Group 1, anticipate the limitations of claim 16 in view of what is well known in the art and obvious to one of ordinary skill. Substantially the same response to arguments apply to the claim of this group as to group 1.

Additionally, the limitation of displaying an amount of materials sold on a same page or screen as a forecast for the raw material, would be an obvious practice so that

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the person (determining discrepancies; as taught by Hafner) can view the numbers side-by-side for the comparison.

The limitation of a “recipe-predicted forecast for the raw material” is also anticipated by the combination of references as Yamamoto et al. teach that raw materials s (*plural*) are ordered for making a product. The term “recipe” has been broadly interpreted by the Examiner to not necessarily be related to food, but to be a general guide for making any product. And, in this light, Yamamoto et al., teach this limitation; the combination with Hafner and Salvo et al. already determined to be proper as stated above (Group 1).

The limitation of “permit a comparison and determination of variance due to errors or loss” is anticipated by Hafner in that the determination of discrepancies between the suggested order quantity and demand (as taught by Hafner) would, at least some times, reveal errors either in the system or human errors. Therefore, the limitation is anticipated by the combination of references.

The limitation of “determining a percentage of cost of the good attributable to the raw material” was clearly addressed in the final Office action as being a well known concept in accounting called “cost of goods sold” found on income statements.

Group 8:

The combination of references, as discussed above for Group 7, anticipate limitations in system format. Substantially the same response to arguments apply to the claim of this group as for group 7.


Group 9:

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The combination of references, as discussed above for Group 7, anticipate limitations in program product format. Substantially the same response to arguments apply to the claim of this group as for group 7.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

 3/16/05

Florian "Ryan" Zeender
March 16, 2005

F. RYAN ZEENDER
PRIMARY EXAMINER

Conferees

 James McClellan
 Joseph Thomas

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007